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10/566,002

11/29/2007

Peter (NMI) James

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EXAMINER

JOHNSON, STEPHEN

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,002	<b>Applicant(s)</b> JAMES, PETER (NMI)	
	<b>Examiner</b> Stephen M. Johnson	<b>Art Unit</b> 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-15 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15 and 17-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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1. This Office action is in response to the amendment as filed on 3/03/2009. Claims 13-15 and 17-25 remain active and an action on these claims follows. Claims 1-12 and 16 have been cancelled.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drop stitches of claims 13 and 25 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 13-15 and 17-25 are rejected under 35 U.S.C. 112, first paragraph, as **failing to comply with the written description requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 13 and 25, it is not understood as to how the upper ends of the water fillable containers are interconnected indirectly as claimed. What structure is intended to be responsible for this claimed indirect interconnection.

5. Claims 13-15 and 17-25 are rejected under 35 U.S.C. 112, first paragraph, as **failing to comply with the enablement requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claims 13 and 25, it is not understood as to how the upper ends of the water fillable containers are interconnected indirectly as claimed. What structure is intended to be responsible for this claimed indirect interconnection.

6. Claims 13-15 and 17-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. In claim 13, applicant claims the walled containers as being connected or connectable at their respective upper and lower ends. However, claim 13 also recites an inflatable support cushion disposed between the walled containers that supports the walls against collapse. It is not understood as to how the walled containers can in fact be supported against collapse if they are not in fact connected at their upper and lower ends. Please clarify. In claim 13, line 4, applicant

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claims the upper ends of the walled containers 1, 2 as being connected to each other indirectly. It is not understood as to what structure is responsible for this indirect connection as claimed.

Please clarify. In claim 13, last 3 lines, applicant claims the walls of the walled containers as being interconnected by drop stitches. Is this intended to mean that each wall is interconnected to itself and how is this accomplished or is it intended to mean that opposite walls 1 and 2 are interconnected by drop stitching? Please clarify. Claim 25 is indefinite for the same reasons as listed above with regard to claim 13. Further, it is not understood as to how the pair of spaced walls can be connected at the upper and lower ends and have an inflatable support cushion disposed between them. With regard to claim 25, it is not understood as to how the walls can be arranged end to end and staggered when they have been previously described as being connected at their upper and lower ends. Please clarify.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 13-15, 17-18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quade (034) in view of Broadhurst et al. (291).

10. Quade (034) discloses a shock suppression apparatus comprising:

- |   |                  |
|---|------------------|
| a) a pair of inflatable spaced-apart walls; | 13               |
| b) connected at their upper ends;           | 26; para. [0065] |
| c) an inflatable support cushion means;     | 50               |
| d) connected together by strapping;         | 26; para. [0065] |

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- e) an inflatable base; 12
- f) a number of individual segments; 13, 17
- g) stitching or hook and loop strap connectors; para. [0044]
- h) a stepped configuration; 17; see fig. 3A, 3B or 17
- i) the containers are interlinked by webbing or strapping; para. [0044]
- and
- j) the support means contains liquid, air, or other material. paras. [0043]; [0049]

Quade (034) applies as recited above. However, undisclosed is a stitching for interconnecting that is drop stitching. Broadhurst et al. (291) teaches a stitching for interconnecting that is drop stitching (col. 2, lines 39-42). Applicant is substituting one type of interconnecting stitching for another in an analogous art setting as explicitly encouraged by both the primary and secondary references (see para. [0044] of Quade and col. 2, lines 39-42 of Broadhurst et al.) with expected or predictable results. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Broadhurst et al. to the Quade shock suppression apparatus and have a shock suppression apparatus that has walls interconnected by drop stitching.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quade (034) in view of Broadhurst et al. (291) as applied to claims 13-15, 17-18, and 20-24 above, and further in view of Reed (603).

Quade (034) and Broadhurst et al. (291) apply as previously recited. However, undisclosed are Velcro straps that are heat-welded in place. Reed (603) teaches Velcro straps that are heat-welded in place (col. 3, lines 33-52). Applicant is substituting one

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type of attachment means for another in the attachment art as explicitly encouraged by the secondary reference (col. 3, lines 33-52 of Reed) with expected or predictable results. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Reed to the Quade in view of Broadhurst et al. shock suppression device and have a shock suppression device with a different type of attachment means.

12. Claims 13, 15, 17-18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. (655) in view of Broadhurst et al. (291).

Wagner et al. (655) disclose a shock suppression apparatus comprising:

- a) a pair of inflatable spaced-apart walls; 16a, 16b
  - b) connected at their upper ends; 28 abc
  - c) an inflatable support cushion means; 12
  - d) connected together by strapping; 28 abc; col. 4, lines 39-50
  - e) a number of individual segments; see fig. 5
  - g) hook and loop strap connectors; 28 abc; col. 5, line 68
  - h) a stepped configuration; 16a, 16b (see fig. 2)
  - i) the containers are interlinked by webbing or strapping; col. 5, lines 7-23
- and
- j) the support means contains liquid, air, or other material. col. 5, line 19

Wagner et al. (655) apply as recited above. However, undisclosed is a stitching for interconnecting that is drop stitching. Broadhurst et al. (291) teaches a stitching for interconnecting that is drop stitching (col. 2, lines 39-42). Applicant is substituting one

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type of interconnecting means for another in an analogous art setting as explicitly encouraged by the secondary references (see col. 2, lines 39-42 of Broadhurst et al.) with expected or predictable results. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Broadhurst et al. to the Wagner et al. shock suppression apparatus and have a shock suppression apparatus that has walls interconnected by drop stitching.

13. Applicant's arguments with respect to claims 13-15 and 17-25 have been considered but are moot in view of the new ground(s) of rejection.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is ([Stephen.Johnson@uspto.gov](mailto:Stephen.Johnson@uspto.gov)). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/  
Primary Examiner, Art Unit 3641

SMJ  
May 20, 2009